

SUPREME COURT OF ARKANSAS

No. CR 99-1116

LEDELL LEE,

APPELLANT;

VS.

STATE OF ARKANSAS,

APPELLEE;

Opinion Delivered APRIL 13, 2006

MOTION TO RECALL MANDATE

MOTION HELD IN ABEYANCE.

MOTIONS – MOTION TO RECALL MANDATE – MOTION HELD IN ABEYANCE. –

Pursuant to *Hill v. State*, 363 Ark. 480, ___ S.W.3d ___ (2005), counsel seeking to represent a capital defendant in connection with unexhausted state remedies following issuance of the mandate must comply with the criteria for appointment set forth in Ark. R. Crim. P. 37.5 and must be appointed by the supreme court; where appellant’s counsel had failed to request the court to appoint her to represent the appellant in the proceedings, the supreme court was unable to address the merits of appellant’s motion to recall the mandate affirming the trial court’s denial of postconviction relief.

Motion to Recall Mandate; held in abeyance.

Cauley, Bowman, Carney, & Williams, PLLC, by: *Deborah Sallings*; and *Public Interest Litigation Clinic, Kansas City, Missouri*, by: *Kent E. Gipson* and *William C. Odle*, for appellant.

Mike Beebe, Att’y Gen., by: *Lauren Elizabeth Heil*, Ass’t Att’y Gen., for appellee.

PER CURIAM.

Appellant Ledell Lee moves this court to recall its mandate affirming the trial court's denial of postconviction relief pursuant to Ark. R. Crim. P. 37.5. See *Lee v. State*, 343 Ark. 702, 38 S.W.3d 334 (2001). At this time, however, we are unable to address the merits of Appellant's motion, as his counsel, Deborah Sallings, has failed to request this court to appoint her to represent Appellant in the instant proceedings. Pursuant to this court's decision in *Hill v. State*, 363 Ark. 480, ___ S.W.3d ___ (2005), counsel seeking to represent a capital defendant in connection with unexhausted state remedies following issuance of the mandate must comply with the criteria for appointment set forth in Rule 37.5 and must be appointed by this court.

Accordingly, Ms. Sallings has fifteen days from the issuance of this *per curiam* to comply with the requirements of Rule 37.5 and *Hill*.